



Legislative Bulletin.....July 12, 2007

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H.R. 1851—Section 8 Voucher Reform Act

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$2.48 billion over five years

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.R. 1851—Section 8 Voucher Reform Act (*Waters, D-CA*)

Order of Business: The bill is scheduled to be considered on Thursday, July 12th, subject to a likely structured rule. Summaries of the amendments made in order under the rule will be provided in a separate RSC document.

Background: As the Congressional Research Service (CRS) reports, the Section 8 Housing Choice Voucher program provides monthly rental assistance to about two million low-income households each year. It is administered at the local level by nearly 2,500 quasi-governmental public housing agencies (PHAs). While some form of Section 8 rental assistance has been in place since the mid-1970s, the modern program was shaped largely by the 1998 Public Housing Reform Act (Public Law 105-276).

The current voucher program provides a federally-defined subsidy, called a voucher, that a family can use to help pay its housing costs in the private market. That voucher pays roughly the difference between a unit's rent and the tenant's contribution towards the rent. Families are required to pay roughly 30% of their adjusted incomes toward rent (with special allowances for up to 40%).

Annual income, for the purpose of rent determination, is defined as all amounts that are anticipated to be received by all members of a household during the subsequent year, with some exclusions (such as foster care payments). PHAs are expected to verify families' incomes using third-party sources. Once the total amount of income has been determined, the family could qualify to have certain amounts deducted from total income, such as \$480 per dependent, \$400 for elderly and disabled households, and reasonable child care expenses, disability expenses, and certain medical expenses of the elderly or disabled.

The current voucher program sets initial eligibility for assistance at 50% or below of area median income (AMI), with a requirement that 75% of all vouchers be targeted to extremely low-income families (30% or below AMI).

CRS confirms that the current voucher program does not have time limits or work requirements. Families that receive voucher assistance can retain that assistance until either they choose to leave the program, they are forced to leave the program (due to non-compliance with program rules or "insufficient" funding of the program), or their income rises to the point that 30% of their income equals their housing costs (at which point their subsidy would be zero).

Before a PHA can approve a housing unit selected by a tenant, the unit must first be inspected to ensure that it complies with the Housing Quality Standards (HQS) adopted by the Department of Housing and Urban Development (HUD). If the unit is approved, it must be reinspected at least annually. If the unit fails inspection, the PHA cannot make payments to the landlord until the unit is in compliance.

Section 8 vouchers are nationally portable, which means that families can take their vouchers and move from the jurisdiction of one PHA to the jurisdiction of another PHA.

Project-based Section 8 housing, as CRS reports, is a form of rental subsidy that is attached to a unit of privately owned housing. Low-income families who move into the housing pay a reduced rent, based on their incomes. Families that live in Section 8 project-based units pay 30% of their incomes toward rent. In order to be eligible, families must be low-income; however, at least 40% of all units must be available for very low-income families. If a family leaves the unit, the owner will continue to receive payments as long as he or she can move another eligible family into the unit.

Owners of properties with project-based Section 8 rental assistance receive a subsidy from HUD, called a Housing Assistance Payment (HAP). HAP payments are equal to the difference between the tenant's payments (30% of income) and a contract rent, which is agreed to between HUD and the landlord.

Today, vouchers are the primary form of assistance provided under Section 8, although over one million units still receive project-based assistance under their original contracts or renewals of those contracts (primarily from the 1970s).

In short, Section 8 vouchers follow the family, whereas Section 8 project-based assistance follows the housing unit.

For more information on Section 8 housing, including a side-by-side chart comparing the major provisions of H.R. 1851 with current law, see [this CRS report](#).

Summary: H.R. 1851 would amend Section 8 of the United States Housing Act of 1937 to alter certain aspects of HUD's rental housing assistance programs. The bill would adjust calculations of income, tenant rent, and PHA funding, alter requirements for the inspection of housing units, and change some requirements for the targeting of housing assistance. Highlights of the bill are as follows:

- Allows unit occupancy and Section 8 assistance payments to be made for up to 30 days if a housing unit fails inspection only because of non-life-threatening conditions (payments suspended after 30 days such conditions are not corrected).
- Also allows a PHA to permit occupancy prior to inspection, if another federal program inspection meeting federal Housing Quality Standards (HQS) has been made within the previous year, and to make payments to the owner retroactive to the beginning of the lease term when an inspection is subsequently completed.
- Extends the current annual re-inspection requirement to a biennial requirement. Allows the use of inspections under another federal, state, or local housing assistance program (instead of a PHA re-inspection), subject to PHA certification that such inspection provides comparable standards to federal HQS.
- Requires PHAs to withhold assistance to any property assisting a voucher holder that fails an inspection and which is not corrected within 90 days. Such withheld assistance could be used to make repairs of such properties and could not be used to evict voucher holders.
- Extends the annual PHA certification requirement for Section 8 housing to three years for fixed income families (as defined in the bill). Interim recertifications could be triggered only if unearned annual income increases by \$1,500 or if a family requests a recertification if its income falls by \$1,500 or more (or a lesser amount that the PHA could establish).
- Makes a variety of changes to how one calculates income for the purposes of qualifying for Section 8 housing. For example:
 - raises the standard deduction for elderly and disabled families from \$400 to \$725 a year;

- raises the standard deduction for dependents from \$480 to \$500 a year (and indexes both above amounts for inflation);
 - eliminates income deductions for child care expenses and child and spousal support;
 - raises the threshold for calculating medical and handicapped assistance expense deductions from expenses over 3% of net income to expenses over 10% of net income;
 - exempts 10% of the first \$10,000 of prior-year earned income;
 - exempts income of minors (except for heads of households or their spouses) and of adult dependents that are full time students;
 - exempts grant-in-aid or scholarship amounts used for tuition or books; and
 - exempts income from Coverdell education accounts and Section 529 qualified tuition programs.
- Allows PHAs to rely on the income determinations made under other federal programs (like Medicaid, TANF, etc.).
 - Creates a new asset limit and residency ownership prohibition, for both initial eligibility and for ongoing annual recertification, for voucher, public housing, and Section 8 project-based assistance. The provision prohibits any family from having either more than \$100,000 in net assets or ownership of a residence suitable for occupancy (subject to certain exceptions).
 - Extends the 80% of local median income limitation that applies to initial occupancy to the recertification process (subject to certain exceptions). PHAs and owners could elect not to enforce this income limitation for residents of public housing or project-based Section 8 units, and PHAs and owners could delay eviction or termination for up to six months.
 - Targets Section 8 assistance to the higher of 30% of the local area median income calculation or the national poverty level for the appropriate family size. (Current law is just the 30% requirement.) 75% of new vouchers and 40% of new public housing and project-based residents must have adjusted incomes below this threshold. This change does not apply to Puerto Rico or any other U.S. territory or possession.
 - Authorizes such sums as may be necessary for FY2008-FY2012 for the renewal of expiring Section 8 vouchers, and for new tenant protection vouchers (for tenants displaced from project-based housing from no fault of their own), enhanced vouchers (special type of tenant protection voucher for certain families with rents above what they had been paying previously), and other special purpose vouchers (for such things as family reunification).
 - Requires HUD to issue tenant protection vouchers for all public and assisted housing units that are lost (not just those occupied at time of application for such tenant replacement vouchers).

- Provides that the voucher funding allocation for PHAs is recalculated each year, based on a PHA's leasing and cost data from the prior calendar year.
- Directs HUD to allocate all funds by the later of February 15th or 45 days after enactment of the appropriations bill funding the voucher renewals.
- Authorizes PHAs to retain unobligated carryover voucher funds equal to 8.33% of their annual allocation at the end of 2007 and 5% in each succeeding year, to be maintained as voucher reserves. If a PHA has reserves of less than 2%, it could receive an advance of up to 2% in the last three months of a year to cover overages. The advance would be offset by an equivalent funding reduction in the next year's funding allocation.
- Requires HUD to recapture amounts in excess of each PHA's reserve limit at the end of each year and make available all such recaptured funds no later than May 1st, first for reimbursement for increased costs related to portability and family self-sufficiency escrow accounts, and next for reallocation to PHAs for increased voucher leasing.
- Provides that voucher administrative fees are adjusted for inflation and include an amount for the cost of issuing new vouchers.
- Alters the homeownership assistance program by allowing voucher funds to be used for a down payment for a first-time home purchase, as a one-time grant in an amount not exceeding \$10,000, for families who have been receiving voucher assistance for a period of at least one year. Allows voucher funds to be used for both the cost of leasing the land for manufactured housing, plus monthly home purchase costs, including property taxes, insurance, and tenant-paid utilities.
- Authorizes a PHA to submit information regarding rental payment history for voucher tenants to credit reporting agencies, upon the consent of the family.
- Directs HUD to assess the performance of PHAs in administering their local voucher programs in the following areas: quality of units assisted, extent of utilization of allocated funds and authorized vouchers, timeliness and accuracy of reporting to HUD, effectiveness in carrying out policies to achieve deconcentration of poverty, reasonableness of rent burdens (as defined in the bill), accurate rent calculations and subsidy payments, effectiveness in carrying out family self-sufficiency activities, timeliness of actions related to landlord participation, and such other areas as the HUD Secretary deems appropriate.
- Increases the percentage of vouchers a PHA can use for projects from 20% to 25%, with authority to go 5% higher to serve homeless persons.
- Increases the percentage of vouchers that can be project-based in any project to the greater of 25 dwelling units or 25% of the units in a project (subject to certain exceptions), to provide for more income-mixing.

- Increases the maximum project-based voucher contract term from 10 to 15 years.
- Allows owners using project-based vouchers to maintain site-based waiting lists, subject to PHA oversight.
- Requires HUD to monitor voucher rent burdens and submit an annual report to Congress on the percentage of families nationwide paying more than 30% and 40%, respectively, of their adjusted incomes for rent. Requires HUD to submit an annual report to Congress on the degree to which voucher families are clustered in lower rent, higher poverty areas, and the extent to which greater geographic distribution of families could be achieved.
- Requires PHAs to publicize information from the HUD reports above and, if the local percentage of voucher families paying more than 30% or 40% of their incomes for rent exceeds the national average, the PHA must either raise the payment standard to eliminate “excessive rent burdens” or explain its reasons for not doing so (a payment standard is a maximum subsidy level that is equal to anywhere between 90% and 110% of Fair Market Rent). HUD would have to approve PHA requests to raise payment standards in such circumstances, up to 120% of the fair market rent (and higher for people with disabilities).
- Requires HUD to set geographical areas for the purpose of establishing fair market rents (FMR) in as wide a range of communities as is feasible, including requiring separate areas for each urban county and metropolitan city with over 40,000 rental units. Areas would be shielded from FMR reductions resulting from a change in the percentile of distribution of rents used to establish the FMR, and tenants would be protected against reductions in payment standards resulting from these provisions.
- Limits a PHA’s elective screening of applicants to an applicant’s ability to fulfill the obligations of the lease, including a consideration of any mitigating circumstances. Applicants and current participants are required to be notified of the basis of any determination of ineligibility and are allowed an informal hearing to seek to reverse the ruling.
- Revises the Moving to Work Program (MTW) as the Housing Innovation Program (HIP) and extends it for ten more years. Up to 60 PHAs could participate generally (as designated by HUD using detailed selection criteria in the bill), plus an additional 20 PHAs under specific program requirements (including one-for-one replacement requirements for demolished units and a prohibition on work requirements and on time limits on receiving assistance). The 25 existing MTW participating agencies would have to be approved as HIP participants, subject to certain exceptions.
- Sets the purpose of HIP as providing PHAs and the HUD Secretary “the flexibility to design and evaluate innovative approaches to providing housing assistance that--
--“increase housing opportunities for low-income families, including preventing homelessness, rehabilitate or replace housing at risk of physical deterioration or obsolescence, and develop additional affordable housing;

- “leverage other Federal, State, and local funding sources, including the low-income housing tax credit program, to expand and preserve affordable housing opportunities, including public housing;
 - “provide financial incentives and other support mechanisms to families to obtain employment and increase earned income;
 - “test alternative rent-setting policies to determine whether rent determinations can be simplified and administrative cost savings can be realized while protecting extremely low- and very low-income families from increased rent burdens;
 - “are subject to rigorous evaluation to test the effectiveness of such innovative approaches; and
 - “are developed with the support of the local community and with the substantial participation of affected residents.”
- HIP is designed to allow for PHAs to creatively provide and administer housing assistance (mainly by suspending many of the complex requirements for non-HIP PHAs).
 - Clarifies that assistance distributed under HIP would have to be in accordance with numerous provisions applicable to non-HIP housing assistance, including such things as judicial review, income targeting, consultations with resident advisory boards, compliance with housing quality standards, the payment of prevailing wages, and the demolition of public housing.
 - HIP participation could not decrease the funds a PHA receives, and each participating PHA would have to report to HUD annually on the use of its HIP funds (in the format of an audit that complies with OMB Circular A-133).
 - HUD would have to submit evaluation reports of HIP participants after three, five, and ten years and could contract out the assessment functions to an independent entity.
 - Authorizes \$10 million for each of FY2008-FY2012 for HIP capacity building and technical assistance to families, plus \$15 million for HUD to conduct the required evaluations.
 - Authorizes HUD to enter into agreements with the Social Security Administration (SSA) and the Secretary of Health and Human Services (HHS) to allow for participation in state demonstration programs designed to permit people with significant disabilities to be employed and continue to receive federal benefits administered by SSA and HHS. HUD could permit a partial or complete disregard of increases in earned income for demonstration program participants for the purpose of calculating rent contributions in Section 8 housing.
 - Authorizes “the amount necessary” in each of FY2008-FY2012 to provide incremental tenant-based vouchers for 20,000 families each year.
 - Sets the effective date for the provisions in this Act, unless otherwise stipulated, as January 1, 2008.

RSC Bonus Fact: Section 8 housing assistance has become the largest component of the HUD budget, with appropriations of more than \$20 billion in FY2006. ([*Congressional Research Service*](#))

Committee Action: On March 29, 2007, H.R. 1851 was referred to the Financial Services Committee, which, on May 23 and 25, 2007, marked up the bill and ordered it reported to the full House by voice vote.

Possible Conservative Concerns: Some conservatives may be concerned about the net increased authorization levels in this bill (\$2.5 billion over five years) and about the continued lack of time limits and work requirements for the Section 8 voucher program.

Administration Position: A Statement of Administration Policy (SAP) was not available at press time. To read a statement on Section 8 housing from the HUD Assistant Secretary for Public and Indian Housing, please go to this webpage:
http://www.house.gov/apps/list/hearing/financialsvcs_dem/htcabrera030907.pdf.

Cost to Taxpayers: CBO reports that H.R. 1851 would authorize a net \$304.0 million in FY2008 and a total of \$2.48 billion over the FY2008-FY2012 period.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Financial Services Committee, in [House Report 110-216](#), states that, “H.R. 1851 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.”

Constitutional Authority: The Financial Services Committee, in [House Report 110-216](#), cites constitutional authority in Article 1, Section 8, Clause 1 (the congressional power to provide for the common defense and **general** welfare of the United States) and Clause 3 (the congressional power to regulate **interstate commerce**). Some conservatives may find such citations questionable.

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